

AMENDED IN ASSEMBLY JUNE 9, 2016

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 441

Introduced by Senator ~~Leno~~ Wolk

February 25, 2015

An act to add Section ~~34177.7~~ to the Health and Safety Code, relating to redevelopment; ~~6254.33~~ to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 441, as amended, ~~Leno~~ Wolk. ~~San Francisco redevelopment; housing.~~ California Public Records Act: exemptions.

(1) *The California Public Records Act requires that public records be open to inspection at all times during the office hours of a public agency, defined as any state or local agency, and that every person has a right to inspect any public record, except as specifically provided. The act further requires that a reasonably segregable portion of a public record be available for inspection by any person requesting the public record after deletion of the portions that are exempted by law.*

This bill would prohibit disclosure of any identification number, alphanumeric character, or other unique identifying code used by a public agency to identify a vendor or contractor, or an affiliate of a vendor or contractor.

(2) *Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*

This bill would make legislative findings to that effect.

(3) *The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.*

This bill would make legislative findings to that effect.

(4) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies as of February 1, 2012, and provides for the designation of successor agencies that are required to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations. Existing law prohibits dissolved redevelopment agencies from issuing bonds or incurring other indebtedness on or after June 29, 2011. Existing law authorizes successor agencies to, among other things, issue bonds or incur indebtedness after that date to refund the bonds or indebtedness of a former redevelopment agency or to finance debt service spikes, as specified. The issuance of bonds or incurrence of other indebtedness by a successor agency is subject to the approval of the oversight board of the successor agency.~~

~~This bill would authorize the successor agency to the Redevelopment Agency of the City and County of San Francisco to issue bonds or incur other indebtedness to finance the construction of affordable housing and infrastructure required by specified enforceable obligations, subject to the approval of the oversight board. The bill would provide that bonds or other indebtedness authorized by its provisions would be considered indebtedness incurred by the dissolved redevelopment agency, would be listed on the Recognized Obligation Payment Schedule, and would be secured by a pledge of moneys deposited into the Redevelopment Property Tax Trust Fund. The bill would authorize the successor agency to require affected taxing entities to make certain determinations as to the related subordination of revenues, and would thereby impose a state-mandated local program. The bill would also require the successor~~

~~agency to make diligent efforts to obtain the lowest long-term cost financing and to make use of an independent financial advisor in developing financing proposals.~~

~~This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6254.33 is added to the Government Code,
2 to read:

3 6254.33. Any identification number, alphanumeric character,
4 or other unique identifying code used by a public agency to identify
5 a vendor or contractor, or an affiliate of a vendor or contractor,
6 is confidential and shall not be disclosed pursuant to this chapter
7 or any other state law.

8 SEC. 2. The Legislature finds and declares that Section 1 of
9 this act, which adds Section 6254.33 to the Government Code,
10 imposes a limitation on the public's right of access to the meetings
11 of public bodies or the writings of public officials and agencies
12 within the meaning of Section 3 of Article I of the California
13 Constitution. Pursuant to that constitutional provision, the
14 Legislature makes the following findings to demonstrate the interest
15 protected by this limitation and the need for protecting that
16 interest:

17 This act balances the right of the public to access relevant
18 information about contractors, vendors, and their affiliates hired
19 by public agencies while preventing the misuse of identification
20 information employed by those agencies that could be used to
21 defraud public agencies.

22 SEC. 3. The Legislature finds and declares that Section 1 of
23 this act, which adds Section 6254.33 to the Government Code,
24 further, within the meaning of paragraph (7) of subdivision (b)
25 of Section 3 of Article I of the California Constitution, the purposes

1 of that constitutional section as it relates to the right of public
2 access to the meetings of local public bodies or the writings of
3 local public officials and local agencies. Pursuant to paragraph
4 (7) of subdivision (b) of Section 3 of Article I of the California
5 Constitution, the Legislature makes the following findings:

6 This act balances the right of the public to access relevant
7 information about contractors, vendors, and their affiliates hired
8 by local agencies while preventing the misuse of identification
9 information employed by those local agencies that may be used to
10 defraud those local agencies.

11 SEC. 4. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district under this act would result from a legislative mandate that
15 is within the scope of paragraph (7) of subdivision (b) of Section
16 3 of Article I of the California Constitution.

17 SECTION 1. ~~The Legislature hereby finds and declares all of~~
18 ~~the following:~~

19 ~~(a) The Department of Finance has provided written~~
20 ~~confirmation to the successor agency to the Redevelopment Agency~~
21 ~~of the City and County of San Francisco (successor agency) that~~
22 ~~the following projects are finally and conclusively approved as~~
23 ~~enforceable obligations:~~

24 ~~(1) The Mission Bay North Owner Participation Agreement.~~

25 ~~(2) The Mission Bay South Owner Participation Agreement.~~

26 ~~(3) The Disposition and Development Agreement for Hunters~~
27 ~~Point Shipyard Phase 1.~~

28 ~~(4) The Candlestick Point-Hunters Point Shipyard Phase 2~~
29 ~~Disposition and Development Agreement.~~

30 ~~(5) The Transbay Implementation Agreement.~~

31 ~~(b) The enforceable obligations described in subdivision (a)~~
32 ~~require the successor agency to fund and develop affordable~~
33 ~~housing, including 1,200 units in Transbay, 1,445 units in Mission~~
34 ~~Bay North and Mission Bay South, and 1,358 units in Candlestick~~
35 ~~Point-Hunters Point Shipyard Phases 1 and 2. In addition, the~~
36 ~~successor agency is required to fund and develop public~~
37 ~~infrastructure in the Transbay Redevelopment Project Area~~
38 ~~pursuant to the Transbay Implementation Agreement, which is~~
39 ~~necessary to improve the area surrounding the Transbay Transit~~
40 ~~Center.~~

1 ~~(e) Due to insufficient property tax revenues in the~~
2 ~~Redevelopment Property Tax Trust Fund, of the total number of~~
3 ~~affordable housing units that the successor agency is obligated to~~
4 ~~fund and develop under the enforceable obligations described in~~
5 ~~subdivision (a), the successor agency has been able to finance the~~
6 ~~construction of only 642 units. Additionally, the successor agency~~
7 ~~has not been able to fulfill its public infrastructure obligation under~~
8 ~~the Transbay Implementation Agreement.~~

9 ~~(d) The successor agency can more expeditiously construct the~~
10 ~~3,361 additional units of required affordable housing and the~~
11 ~~necessary infrastructure improvements if it is able to issue bonds~~
12 ~~or incur other indebtedness secured by property tax revenues~~
13 ~~available in the Redevelopment Property Tax Trust Fund to finance~~
14 ~~these obligations.~~

15 ~~(e) It is the intent of the Legislature to authorize the successor~~
16 ~~agency to issue bonds or incur other indebtedness for the purpose~~
17 ~~of financing the construction of affordable housing and~~
18 ~~infrastructure required under the enforceable obligations described~~
19 ~~in subdivision (a). These bonds or other indebtedness may be~~
20 ~~secured by property tax revenues available in the successor~~
21 ~~agency's Redevelopment Property Tax Trust Fund from those~~
22 ~~project areas that generated tax increment for the Redevelopment~~
23 ~~Agency of the City and County of San Francisco upon its~~
24 ~~dissolution, if the revenues are not otherwise obligated.~~

25 ~~(f) Authorizing the successor agency to issue bonds or incur~~
26 ~~other indebtedness to finance the enforceable obligations described~~
27 ~~in subdivision (a) will financially benefit the affected taxing~~
28 ~~entities, insofar as it will ensure that funds which would otherwise~~
29 ~~flow to those entities as "residual" payments pursuant to paragraph~~
30 ~~(4) of subdivision (a) of Section 34183 of the Health and Safety~~
31 ~~Code will not be redirected to fund these enforceable obligations.~~
32 ~~Instead, the enforceable obligations will be funded with the~~
33 ~~proceeds of the bonds or debt issuances.~~

34 ~~(g) The housing situation in the City and County of San~~
35 ~~Francisco is unique, in that median rents and sales prices are among~~
36 ~~the highest in the state. Because of this, the City and County of~~
37 ~~San Francisco is currently facing an affordable housing crisis.~~

38 ~~SEC. 2. Section 34177.7 is added to the Health and Safety~~
39 ~~Code, to read:~~

~~34177.7. (a) (1) In addition to the powers granted to each successor agency, and notwithstanding any other provision of this division, including, but not limited to, Sections 34162 and 34189, the successor agency to the Redevelopment Agency of the City and County of San Francisco may issue bonds or incur other indebtedness to finance all of the following:~~

~~(A) The affordable housing requirements of the following enforceable obligations:~~

~~(i) The Mission Bay North Owner Participation Agreement.~~

~~(ii) The Mission Bay South Owner Participation Agreement.~~

~~(iii) The Disposition and Development Agreement for Hunters Point Shipyard Phase 1.~~

~~(iv) The Candlestick Point-Hunters Point Shipyard Phase 2 Disposition and Development Agreement.~~

~~(v) The Transbay Implementation Agreement.~~

~~(B) The infrastructure requirements of the Transbay Implementation Agreement.~~

~~(2) The successor agency to the Redevelopment Agency of the City and County of San Francisco may pledge to the bonds or other indebtedness incurred pursuant to this section any property tax revenues available in the Redevelopment Property Tax Trust Fund that are not otherwise obligated.~~

~~(b) Bonds issued pursuant to this section may be sold at either a negotiated or a competitive sale. The bonds issued or other indebtedness incurred pursuant to this section may be issued or incurred on a parity basis with outstanding bonds or other indebtedness obligations of the successor agency to the Redevelopment Agency of the City and County of San Francisco, and the successor agency may pledge the revenues pledged to those outstanding bonds or other indebtedness obligations to the issuance of bonds or other indebtedness incurred pursuant to this section. The pledge, when made in connection with the issuance of bonds or other indebtedness obligations under this section, shall have the same lien priority as the pledge of outstanding bonds or other indebtedness, and shall be valid, binding, and enforceable in accordance with its terms.~~

~~(c) (1) Prior to incurring any bonds or other indebtedness pursuant to this section, the successor agency to the Redevelopment Agency of the City and County of San Francisco may subordinate to the bonds or other indebtedness the amount required to be paid~~

1 to an affected taxing entity pursuant to paragraph (1) of subdivision
2 (a) of Section 34183, provided that the affected taxing entity has
3 approved the subordinations pursuant to this subdivision.

4 (2) ~~At the time the successor agency requests an affected taxing~~
5 ~~entity to subordinate the amount to be paid to it, the successor~~
6 ~~agency shall provide the affected taxing entity with substantial~~
7 ~~evidence that sufficient funds will be available to pay both the debt~~
8 ~~service on the bonds or other indebtedness and the payments~~
9 ~~required by paragraph (1) of subdivision (a) of Section 34183,~~
10 ~~when due.~~

11 (3) ~~Within 45 days after receipt of the agency's request, the~~
12 ~~affected taxing entity shall approve or disapprove the request for~~
13 ~~subordination. An affected taxing entity may disapprove a request~~
14 ~~for subordination only if it finds, based upon substantial evidence,~~
15 ~~that the successor agency will not be able to pay the debt service~~
16 ~~payments and the amount required to be paid to the affected taxing~~
17 ~~entity. If the affected taxing entity does not act within 45 days after~~
18 ~~receipt of the agency's request, the request to subordinate shall be~~
19 ~~deemed approved and shall be final and conclusive.~~

20 (d) ~~An action may be brought pursuant to Chapter 9~~
21 ~~(commencing with Section 860) of Title 10 of Part 2 of the Code~~
22 ~~of Civil Procedure to determine the validity of bonds or other~~
23 ~~obligations authorized by this section, the pledge of revenues to~~
24 ~~those bonds or other obligations authorized by this section, the~~
25 ~~legality and validity of all proceedings theretofore taken and, as~~
26 ~~provided in the resolution of the legislative body of the successor~~
27 ~~agency to the Redevelopment Agency of the City and County of~~
28 ~~San Francisco authorizing the bonds or other obligations authorized~~
29 ~~by this section, proposed to be taken for the authorization,~~
30 ~~execution, issuance, sale, and delivery of the bonds or other~~
31 ~~obligations authorized by this section, and for the payment of debt~~
32 ~~service on the bonds or the payment of amounts under other~~
33 ~~obligations authorized by this section. Subdivision (e) of Section~~
34 ~~33501 does not apply to any such action. The Department of~~
35 ~~Finance shall be notified of the filing of any action as an affected~~
36 ~~party.~~

37 (e) ~~Notwithstanding any other law, including, but not limited~~
38 ~~to, Section 33501, an action to challenge the issuance of bonds or~~
39 ~~the incurrence of indebtedness by the successor agency to the~~
40 ~~Redevelopment Agency of the City and County of San Francisco~~

1 shall be brought within 30 days after the date on which the
2 oversight board approves the resolution of the successor agency
3 approving the issuance of bonds or the incurrence of indebtedness
4 authorized under this section.

5 (f) The actions authorized in this section shall be subject to the
6 approval of the oversight board, as provided in Section 34180.
7 Additionally, an oversight board may direct the successor agency
8 to the Redevelopment Agency of the City and County of San
9 Francisco to commence any of the transactions described in
10 subdivision (a) so long as the successor agency is able to recover
11 its related costs in connection with the transaction. After a
12 successor agency, with approval of the oversight board, issues any
13 bonds, incurs any indebtedness, or executes an amended
14 enforceable obligation pursuant to subdivision (a), the oversight
15 board shall not unilaterally approve any amendments to or early
16 termination of the bonds, indebtedness, or enforceable obligation.
17 If, under the authority granted to it by subdivision (h) of Section
18 34179, the Department of Finance either reviews and approves or
19 fails to request review within five business days of an oversight
20 board approval of an action authorized by this section, the
21 scheduled payments on the bonds or other indebtedness shall be
22 listed in the Recognized Obligation Payment Schedule and shall
23 not be subject to further review and approval by the department
24 or the Controller. The department may extend its review time to
25 60 days for actions authorized in this section and may seek the
26 assistance of the Treasurer in evaluating proposed actions under
27 this section.

28 (g) Any bonds, indebtedness, or amended enforceable obligation
29 authorized by this section shall be considered indebtedness incurred
30 by the dissolved redevelopment agency, with the same legal effect
31 as if the bonds, indebtedness, financing agreement, or amended
32 enforceable obligation had been issued, incurred, or entered into
33 prior to June 29, 2011, in full conformity with the applicable
34 provisions of the Community Redevelopment Law that existed
35 prior to that date, shall be included in the successor agency to the
36 Redevelopment Agency of the City and County of San Francisco's
37 Recognized Obligation Payment Schedule, and shall be secured
38 by a pledge of, and lien on, and shall be repaid from moneys
39 deposited from time to time in the Redevelopment Property Tax
40 Trust Fund established pursuant to subdivision (c) of Section

1 34172, as provided in paragraph (2) of subdivision (a) of Section
2 34183. Property tax revenues pledged to any bonds, indebtedness,
3 or amended enforceable obligations authorized by this section are
4 taxes allocated to the successor agency pursuant to subdivision (b)
5 of Section 33670 and Section 16 of Article XVI of the California
6 Constitution.

7 (h) ~~The successor agency to the Redevelopment Agency of the~~
8 ~~City and County of San Francisco shall make diligent efforts to~~
9 ~~ensure that the lowest long-term cost financing is obtained. The~~
10 ~~financing shall not provide for any bullets or spikes and shall not~~
11 ~~use variable rates. The successor agency shall make use of an~~
12 ~~independent financial advisor in developing financing proposals~~
13 ~~and shall make the work products of the financial advisor available~~
14 ~~to the Department of Finance at its request.~~

15 SEC. 3. ~~The Legislature finds and declares that a special law~~
16 ~~is necessary and that a general law cannot be made applicable~~
17 ~~within the meaning of Section 16 of Article IV of the California~~
18 ~~Constitution because of the unique circumstances relating to~~
19 ~~affordable housing in the City and County of San Francisco in~~
20 ~~conjunction with the affordable housing and infrastructure~~
21 ~~requirements of the enforceable obligations specified in this act.~~

22 SEC. 4. ~~No reimbursement is required by this act pursuant to~~
23 ~~Section 6 of Article XIII B of the California Constitution because~~
24 ~~the only costs that may be incurred by a local agency or school~~
25 ~~district are the result of a program for which legislative authority~~
26 ~~was requested by that local agency or school district, within the~~
27 ~~meaning of Section 17556 of the Government Code and Section~~
28 ~~6 of Article XIII B of the California Constitution.~~